

NOT FOR PUBLICATION

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

MARIA LAPADULA,

Plaintiff,

v.

NEW JERSEY DEPARTMENT OF
CORRECTIONS, et al.,

Defendants.

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CIVIL ACTION NO. 11-2616 (MLC)

O P I N I O N

THE DEFENDANTS removed this action from state court on May 6, 2011, because the "complaint alleges violations of the Plaintiff's rights under the Eighth Amendment of the United States Constitution; more specifically, Plaintiff alleges claims of reckless and deliberate indifference constituting cruel and unusual punishment". (Dkt. entry no. 1, Rmv. Not. at 2.) The plaintiff moved on June 3, 2011, to (1) in effect, withdraw any claims that may be construed as being asserted pursuant to federal law, and (2) remand the action. (Dkt. entry no. 3, Notice of Mot.) If the claims that may be construed as being asserted pursuant to federal law are withdrawn, then there is no longer a basis for subject matter jurisdiction here.

THE COURT will decide the motion now without oral argument. See Fed.R.Civ.P. 78(b). The Court will exercise the discretion to (1) grant the motion, (2) dismiss any claims that may be

construed as being asserted pursuant to federal law, and (3) remand the action to state court. See 28 U.S.C. § 1367(c).

FOR GOOD CAUSE APPEARING, the Court will issue an appropriate order and judgment.

s/ Mary L. Cooper
MARY L. COOPER
United States District Judge

Dated: June 6, 2011